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# Situation of human rights in the Sudan

## Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights in the Sudan prepared by Mr. Leonardo Franco, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1999/15 of 23 April 1999 and Economic and Social Council decision 1999/230 of 27 July 1999.

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## Annex

# Report on the situation of human rights in the Sudan, prepared by Leonardo Franco, Special Rapporteur, in accordance with Commission on Human Rights resolution 1999/15 and Economic and Social Council decision 1999/230

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# I. Introduction

1. The mandate of the Special Rapporteur on the situation of human rights in the Sudan was established by the Commission on Human Rights in its resolution 1993/60 of 10 March 1993. On 30 March 1993, the Chairman of the Commission appointed Mr. Gáspár Bíró (Hungary) Special Rapporteur. Mr. Bíró submitted five reports to the Commission on Human Rights (E/CN.4/1994/48, E/CN.4/1995/58, E/CN.4/1996/62, E/CN.4/1997/58 and E/CN.4/1998/66) and five interim reports to the General Assembly, which are contained in the annexes to documents A/48/601, A/49/539, A/50/569, A/51/490 and A/52/510.

2. Following the presentation of his report to the fifty-fourth session of the Commission on Human Rights, Mr. Bíró resigned. By letter dated 12 August 1998, the Chairman of the fifty-fourth session of the Commission appointed Mr. Leonardo Franco (Argentina) as the new Special Rapporteur on the situation of human rights in the Sudan.

3. The present report is the first interim report submitted by the Special Rapporteur to the General Assembly on the situation of human rights in the Sudan since his appointment in August 1998. The Special Rapporteur has also reported to the Commission on Human Rights (E/CN.4/1999/38 and Add.1).

4. Upon accepting his appointment, the Special Rapporteur proceeded to inform himself about the general situation in the Sudan. From 9 to 16 October 1998, he undertook a mission to Geneva for consultations with the United Nations High Commissioner for Human Rights, the staff of the Office of the High Commissioner (OHCHR), the specialized agencies, as well as with diplomatic missions and independent experts. From 17 to 22 October, he visited the United Kingdom of Great Britain and Northern Ireland where he consulted with a wide range of international non-governmental organizations (NGOs), independent experts and academics.

5. While in Geneva, the Special Rapporteur approached the Sudanese authorities on 16 October 1998 and stated his wish to visit the country at the earliest opportunity. However, the combination of a regional conference on refugees and internally displaced persons being hosted by the Sudan and the celebration of Ramadan made it difficult to envisage a visit before the end of January 1999.

6. On the occasion of the seminar "Enriching the Universality of Human Rights — Islamic Perspectives on the Universal Declaration of Human Rights", which the Special Rapporteur attended in Geneva on 9 and 10 November 1998, the Special Rapporteur suggested early February 1999 for his visit, which appeared to be agreeable to the Sudanese authorities. The Minister of External Relations of the Sudan assured the High Commissioner for Human Rights on 16 November 1998 that the Special Rapporteur would be welcome to visit the Sudan and that he would enjoy the full cooperation of the Government.

7. On 2 January 1999, the Ministry of External Relations of the Sudan, in inviting the Special Rapporteur to visit the country, reiterated the firm commitment of the Government to constructive assistance and cooperation during the visit and expressed confidence that by building on transparency, objectivity and neutrality the Government of the Sudan and the Special Rapporteur would accomplish the tasks assigned by the Commission on Human Rights. In his reply of 27 January, the Special Rapporteur proposed the following objectives for the mission: (i) to examine with the authorities the new Constitution and any new legislation adopted; (ii) to look into the causes and implications of the serious humanitarian crisis occurring especially in the southern part of the Sudan; and (iii) to review with the authorities progress in the implementation of the provisions of Commission on Human Rights resolution 1998/67.

8. The visit, initially scheduled for 2 February, had to be postponed owing to technical problems. It took place from 13 to 24 February, and the Special Rapporteur concluded his mission with a brief visit to Kenya.

9. The Special Rapporteur acknowledges the excellent cooperation he received from the Government of the Sudan throughout his visit. In particular, he wishes to thank the authorities for facilitating his passage to the rebel-held territories in the south and for giving him direct access to detainees and places of detention. Particular thanks go to the Rapporteur of the Advisory Council for Human Rights who was instrumental in organizing the programme, as well as to the United Nations Development Programme (UNDP) and Operation Lifeline Sudan (OLS) in both the Sudan and Kenya.

10. On 6 April 1999, the Special Rapporteur submitted his report to the fifty-fifth session of the Commission on Human Rights (E/CN.4/1999/38/Add.1). Details on all consultations held are contained therein. However, certain paragraphs from the report are reiterated or summarized in the present report when required to provide the reader with a better understanding of the context.

11. The report offered a legal and institutional analysis of the new legal texts adopted in the Sudan, concluding that the adoption of the new Constitution in 1998 was not the

culmination of a process based on political consensus. However, the Special Rapporteur acknowledged that the Bill of Rights embodied in the Constitution should nevertheless be recognized as a positive step, provided it is underpinned by measures ensuring the transition from a de facto emergency regime to a democratic system based on the rule of law.

12. In that connection, the Special Rapporteur expressed the view that the abrogation of emergency legislation such as the National Security Act, the adoption of future implementing legislation in conformity with international human rights instruments and the independence of the judiciary would be essential indicators of the Government's genuine will for change.

13. The Special Rapporteur also regretted that the adoption of the new Constitution was overshadowed by the curtailment of a series of political freedoms and abuses such as arbitrary arrests and detentions without due process, targeting in particular human rights advocates, as well as political, religious and student leaders. The Special Rapporteur also reported cases of torture.

14. Finally, the Special Rapporteur recommended, *inter alia*, that the role of State security agencies, which had been granted exceptional powers by virtue of the emergency laws, be restricted considering that, according to consistent information received, they are directly responsible for human rights violations and that their pervasive presence creates a climate of fear and intimidation. Recommendations for the prevention and abolition of torture were also formulated in the report.

15. The Special Rapporteur also elaborated on the humanitarian emergency deriving from the conflict, particularly the plight of the internally displaced persons. Reference was also made to evidence proving that the war was being conducted in total disregard of the principles of human rights and international humanitarian law and that violations were being perpetrated by all parties involved in the conflict, the Government and groups under its control bearing the largest share of responsibility. The Special Rapporteur expressed serious concern that innocent civilians, in particular women and children, were the principal victims of the conflict.

16. The Special Rapporteur expressed the view that the war and the pernicious strategies employed had also revived and exacerbated the problem of slavery in the Sudan. He deemed that more must be done by the Government in order to address and remedy the situation. In that connection, he invited the Government to accept, *inter alia*, a multilateral investigation into the causes of slavery and ways and means to obtain its eradication in the Sudan.

17. Finally, the Special Rapporteur stressed the need for the establishment of a United Nations human rights presence inside the Sudan for the purposes of (a) observing the human rights situation; (b) contributing to capacity-building for national human rights institutions; (c) ensuring that human rights concerns are incorporated in the programmes of other United Nations organizations.

18. In its reply, the Government of the Sudan stressed the latest developments, particularly the adoption of the new constitution, the release of all political detainees, the implementation of the 1997 Khartoum peace agreement, the declaration of a comprehensive ceasefire, the full support given to Operation Lifeline Sudan (OLS) and the establishment of the Constitutional Court to protect the Bill of Rights enshrined in the Constitution. It also reiterated its willingness to continue to cooperate with the Special Rapporteur, whose effort to address all issues of concern objectively was greatly appreciated.

19. The Government regretted, however, that the practical measures undertaken to bring peace to the country, notably the 1997 peace agreement, were not given due weight. Also, it argued that some of the Special Rapporteur's remarks on the revision of the existing legislation were unjustified and/or outdated. In that connection, the Government reiterated its commitment to implement measures to ensure the transition to a political system based on the rule of law and to comply with the Geneva Conventions of 12 August 1949.

20. Finally, while inviting the Special Rapporteur to reconsider his position on the issue of slavery, the Government reiterated its objection to the establishment of a human rights field presence and stated that building national capacities was less expensive and more effective.

21. The Commission on Human Rights, in resolution 1999/15, expressed its deep concern at continued serious violations of human rights, fundamental freedoms and relevant provisions of international humanitarian law perpetrated by all parties to the conflict in the Sudan and in areas under the control of the Government. The Commission urged all parties to the conflict: (a) to respect and protect human rights and fundamental freedoms and international humanitarian law; (b) to stop immediately the use of weapons, including landmines, against the civilian population; (c) to grant safe and unhindered access to humanitarian aid in particular to Bahr el Ghazal and the Nuba Mountains; (d) in particular the Sudan People's Liberation Army (SPLA), to stop attacks on relief and

humanitarian workers. The Commission called upon the Government of the Sudan (a) to comply fully with its international human rights obligations; (b) to ensure the rule of law by harmonizing its legislation with applicable international human rights standards; (c) to take all effective measures to end all acts of torture; (d) to investigate reports of the abduction of women and children and to accept, *inter alia*, a multilateral investigation into the causes of the abduction of women and children subjected to forced labour or similar conditions, as well as ways and means to eradicate this practice. It encouraged the Government of the Sudan to continue its dialogue with the Office of the United Nations High Commissioner for Human Rights with a view to establishing a permanent representation of the High Commissioner and decided to request the Office of the High Commissioner urgently to take into consideration requests for assistance by the Government of the Sudan.

22. Following his report to the Commission, the Special Rapporteur continued to receive information on the human rights situation in the Sudan, including on recent legislative developments. On 20 August 1999, the Special Rapporteur informed the Sudanese authorities of his wish to visit the country in late October or early November 1999, with a view to collecting relevant information prior to the drafting of his report to the fifty-sixth session of the Commission on Human Rights. In response, the Government sent some preliminary information on the most recent developments. The Special Rapporteur welcomes the willingness to continue to cooperate expressed by the Government.

23. The Special Rapporteur was particularly encouraged to learn that, further to resolution 1999/15, OHCHR fielded a needs assessment mission to explore ways and means to develop a programme of technical assistance in the field of human rights in the Sudan. The mission, which took place from 14 to 26 September, travelled to Khartoum, Kaduqli and Juba, as well as Nairobi, to hold consultations with all the parties concerned.

## II. Obligations of the Government of the Sudan under international human rights and humanitarian law

24. As a Member State of the United Nations, the Sudan is bound by the Charter of the United Nations. Further, it is obliged to respect the human rights and fundamental freedoms of all persons within its territory as set out, *inter alia*, in the following instruments to which the Sudan has become a party: the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Rights of the Child; the Slavery Convention, as amended; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practice Similar to Slavery; the Convention relating to the Status of Refugees and the Additional Protocol thereto.

25. As a member of the International Labour Organization, the Sudan has ratified its Conventions concerning Forced Labour (No. 29), the Abolition of Forced Labour (No. 105), the Right to Organize and Collective Bargaining (No. 98), Employment Policy (No. 122) and Discrimination (Employment and Occupation) (No. 111). On 23 September 1957, the Sudan became a party to the four Geneva Conventions of 12 August 1949 for the protection of war victims. Sudan also ratified the Chemical Warfare Convention in 1999. Further, it is to be noted that the Sudan has signed the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Although signature has not yet been followed by ratification, the Sudan has, by signing, shown the intention to accept the obligations under this Convention and, under customary international law, as reflected in the Vienna Convention on the Law of Treaties, is obligated not to do anything which would defeat the object and purpose of the Convention against Torture, pending a decision on ratification.

26. In addition to the obligations arising from conventional international law, the Sudan is also bound to respect the standards of international customary law.

## III. Political and social context

### A. The new Constitution and law on political parties

27. In April 1998, the new Constitution was adopted by the National Assembly and subsequently endorsed by a referendum. In the course of his visit, the Special Rapporteur had the opportunity to discuss the new Constitution with both governmental and non-governmental actors. The law on political parties came into force on 1 January 1999. The National Security Act of 1995 was repealed by the National Security Forces Act of 1999, enacted on 21 July 1999.

## B. The peace process

### 1. The peace talks

28. It should be recalled that the 1994 Declaration of Principles (DOP) agreed to by the Government of the Sudan, the Sudan People's Liberation Movement (SPLM) and the Sudan People's Liberation Army (SPLA) under the auspices of the Inter-Governmental Authority on Development (IGAD) provides the basic framework for a peaceful solution to the conflict in the Sudan. The most important principle set forth in the DOP is the right of self-determination for the people of southern Sudan.

29. Following an attempt by the Government to focus on a different political strategy based on building "peace from within", which led to the signing of the 1997 Khartoum peace agreement between the Government and six splinter rebel groups, and further to a united offensive by forces of the National Democratic Alliance (NDA), the Government once again accepted the DOP as the basis for the IGAD-sponsored peace talks. However, the latest developments in the oil zone might jeopardize the sustainability of the Khartoum peace agreement.

30. A number of initiatives took place after the fifty-fifth session of the Commission on Human Rights. These included discussions at the highest political level, involving Parliamentary Speaker Hassan al-Turabi and NDA opposition leader Sadiq al-Mahdi, as well as mediation efforts by former Vice-President Abel Alier who met both with the Government and SPLA leader John Garang. However, no significant progress was achieved. Further talks were fostered by Egypt and the Libyan Arab Jamahiriya, which in August 1999 proposed a five-point plan calling for a permanent ceasefire in the Sudan and a reconciliation conference.

31. After several postponements to allow for a broader opportunity for the attainment of peace, a new round of IGAD peace talks took place in Nairobi from 19 to 24 July. It ended after the Government and the SPLM/A failed to achieve a breakthrough in any of the substantive issues at stake, namely a comprehensive ceasefire, self-determination for the south, defining a border, religion, the transitional period and a referendum. The only achievement was the agreement on the setting-up of a permanent secretariat in Nairobi for the talks, under the supervision of a special envoy who would undertake "shuttle diplomacy" between talks. The talks were scheduled to resume within 60 days and to continue in permanent session.

32. Thus, the conflict has entered into its seventeenth year with no end in sight. Slow progress and long adjournments between IGAD meetings have attracted criticism from within and outside the Sudan.

### 2. The ceasefire

33. At the beginning of April, the SPLM/A dismissed the Government's offer of a comprehensive ceasefire in all parts of southern Sudan and instead announced a three-month extension of the humanitarian ceasefire, which was due to expire on 15 April, in the areas most affected by famine. The SPLM/A announced its readiness to extend the ceasefire to other areas of the country in need of humanitarian intervention and stated that once an agreement had been reached on all issues in the IGAD DOP, both the Government and the SPLM/A should declare a permanent and comprehensive ceasefire.

34. On 5 August 1999, the Government of the Sudan announced a 70-day ceasefire to facilitate the delivery of humanitarian aid to all areas in need.

35. Both ceasefires were reported to have been violated by the parties, in particular by bombing, forced population displacements and other acts of violence against the civilian population, and restrictions on access for the delivery of humanitarian assistance. Further details about violations of the ceasefire are contained in chapter IV, section B, of the present report.

### 3. Inter-tribal peace initiatives

36. The Dinka and Nuer chiefs, together with representatives of civil society and religious leaders from the west bank of the Nile, met from 27 February to 8 March 1999 in Wunlit, Bahr el Ghazal, under the auspices of the New Sudan Council of Churches, for the West Bank Peace and Reconciliation Conference. This grass-roots gathering culminated in the adoption of the Wunlit Dinka-Nuer Covenant subscribing, *inter alia*, to a permanent ceasefire, with immediate effect, to put an end to 7½ years of conflict between the Dinka and Nuer peoples on the west bank of the Nile; the granting of amnesty for offences committed prior to 1 January 1999; and freedom of movement across the lines of conflict.

37. A Government-sponsored conference seeking to put an end to years of conflict between the African Masalit and Arab tribesmen in West Darfur was held in the state capital of el-Geneina in June 1999. Despite the comprehensive peace agreement which was adopted, there have been continuing reports of extensive violence and human rights abuses against Masalit civilians on the part of Arab militias allegedly supported by the Government, driving more than 30,000 people into exile in Chad and Egypt and reportedly

displacing some 350,000 into areas within West Darfur State itself. The ongoing inter-tribal conflict traditionally has been over water, grazing and land rights. More recently, the Government has reportedly accused the Masalit of collaborating with the SPLA and other opposition groups.

## C. The humanitarian situation

38. On 22 May, the Government of the Sudan agreed to authorize the United Nations to send its first humanitarian assessment mission since the early 1980s to the SPLM/A-held areas of the Nuba Mountains in South Kordofan. The assessment was undertaken from 21 to 24 June by representatives of the Office for the Coordination of Humanitarian Affairs (OCHA), the United Nations Children's Fund (UNICEF) and the World Food Programme (WFP) and aimed at appraising the humanitarian needs of vulnerable civilian populations in five villages in the area.

39. Concern at the prospect of a recurrence of famine, which killed thousands of people in 1998 and affected more than 2.6 million, has been expressed by a number of informed circles. The situation of the civilian population, in particular women and children and the internally displaced, continues to be extremely precarious, all the more since food aid delivery is frequently hampered owing to the poor security conditions.

## D. The social and economic situation

### 1. The oil issue

40. There are two main geographical areas with oil reserves, both located in the western Upper Nile region of southern Sudan. These are Heglig and Unity oilfields north of Bentiu, the capital of Unity State, and Block 5 A, south of Bentiu.

41. Sudan has been trying to develop its oil industry since the 1970s. After a 10-year halt, the exploitation of Sudan's oil resources was taken over in mid-1998 by a consortium that included a Canadian company, Talisman, China and Malaysia, in addition to the Sudanese national oil company. The consortium responsible for building the 1,610-km pipeline from the oilfields north of Bentiu to Port Sudan on the Red Sea. The pipeline began operations in June 1999. At present, it is designed to carry 450,000 barrels per day and plans are under way to extend it to the oilfields south of Bentiu as the Sudan has been dependent on petroleum imports for many years owing to the conflict and its economy severely affected by United States and European trade embargoes, the oil project is expected to provide an important boost to Sudan's economy.

### 2. Health

42. A meningitis outbreak threatened mainly South, North and West Darfur, Sennar and Kordofan, with 24,911 cases reported and 1,704 deaths as of 18 May. Despite the massive vaccination campaign, about 4.5 million people still need to be vaccinated. The meningitis outbreak, which was helped by hot, dry weather, has reportedly outstripped all previous epidemics, putting more than 1 million people at risk.

43. Humanitarian officers working in the southern Akobo area reported that more than 180 people had died of cholera in the region since 6 April when the first cases were detected.

## E. The regional environment

44. Improvements have been noted in the relationship between the Sudan and some neighbouring countries. Despite recurrent tensions at their common border, contacts between Eritrea and the Sudan resulted in the Doha (Qatar) meeting aimed at the normalization of relations by the establishment of a joint committee to implement the reconciliation accord of 2 May. On 9 June, the Foreign Ministers of the Sudan and Egypt held talks in Cairo aimed at overcoming past tensions and creating an atmosphere conducive to the holding of a summit meeting. The two countries agreed that their relations should focus on comprehensive integration at all bilateral, regional and international levels. The need for mutual consultations and constructive dialogue was also reiterated. The Libyan Arab Jamahiriya was active in a mediation effort between the Government and opposition groups in May and June, when President Gaddafi met with his Sudanese counterpart.

# IV. Main issues of concern

## A. Respect for human rights and humanitarian law in the conflict

### 1. General situation

45. The Special Rapporteur wishes to reiterate that as the Sudanese conflict is a case of internal armed conflict, both opposition groups and the Government should be governed by common article 3 of the Geneva Conventions, which provides that "persons taking no active part in the hostilities,

including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds ... shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex ....". Moreover, in its resolution 2444 (XXIII) of 19 December 1968 on respect for human rights in armed conflicts, the General Assembly expressly recognized the principle of civilian immunity and affirmed that "it is prohibited to launch attacks against the civilian populations as such". In addition, customary international law and international humanitarian law prohibit indiscriminate attacks against civilian populations, starvation of civilians as a method of combat, and the pillage and destruction of civilian property.

46. During his mission, the Special Rapporteur held numerous consultations with national and international organizations, government officials, the SPLM/A and individual experts. He received well-documented information, often from first-hand sources, pointing to the perpetration by all parties to the conflict in southern Sudan of massive and systematic violations of human rights and international humanitarian law, of which innocent civilians are the principal target and the famine is a direct by-product, as food is manipulated as a weapon of war.

47. Although it is difficult to establish the exact number, approximately 1.9 million people are believed to have died in southern and central Sudan as a result of 16 years of war. In 1998 alone, 60,000 people were reported killed and over 100,000 were reportedly displaced by fighting in the east, particularly in Kassala, Gedaref and Blue Nile States. Up to 4.5 million people — one out of every five of the country's total population — have been displaced at least once since the beginning of the war in 1983. In addition to the displaced inside the Sudan, approximately 360,000 Sudanese are refugees in six neighbouring countries, having fled the violence in southern Sudan. Additional large numbers of Sudanese have left the Sudan and reside in countries such as Egypt, albeit without formal refugee status.

48. Many people lack the land or dependable security to farm, malnutrition and disease are rampant and efforts to deliver relief to many locations are impeded. Reportedly, in 1998 alone 60,000 people perished as a consequence of the famine. According to a WFP assessment in mid-1998, out of a total population of 30 million, 2.6 million people were at risk of starvation in the Sudan, 2.4 million of them in southern Sudan, not counting the estimated 100,000 people in SPLA-held areas of the Nuba Mountains.

49. During his mission, the Special Rapporteur visited two towns in southern Sudan, Wau and Juba, and the humanitarian relief airbase Lokichoggio in Kenya. In Lokichoggio, the Special Rapporteur had meetings with the OLS Humanitarian Principles Unit, other United Nations agencies and NGOs participating in OLS. From there he went to the SPLA-controlled territory in the south of the Sudan, accompanied by OLS officers, where he visited the site of the Nuer-Dinka reconciliation conference mentioned earlier. A detailed account of his mission is contained in his report to the fifty-fifth session of the Commission on Human Rights (E/CN.4/1999/38/Add.1).

### 2. Creation of the Committee for the Eradication of Abduction of Women and Children (CEAWC)

50. Further to Commission resolution 1999/15, and in an effort to facilitate the safe return of abducted women and children to their families, the Minister of Justice of the Sudan, issued in May 1999 a ministerial decree creating the CEAWC with full legal powers and mandate. The body is comprised of members of all the conflicting tribal groups of Baggara and Dinka, the Dinka Chiefs Committee and NGOs. It also includes as ex officio members legal officers from the affected regions of Kordofan, Darfur and Bahr el Ghazal.

51. The Special Rapporteur was very pleased to learn of the encouraging decision by the Government of the Sudan to establish the Committee; the Government submitted several informative documents to the Special Rapporteur in this respect.

52. In order to facilitate the work of the CEAWC, links have been established with high-ranking officials in different fields as well as the international community based in Khartoum, including several United Nations agencies. In the months following its establishment, the CEAWC undertook several activities, including the organization of workshops with the cooperation and participation of international actors and needs assessment missions. The setting up of a database containing all registered cases of abduction has also been envisaged. The CEAWC also reported that some abductees had been successfully retrieved.

53. The Special Rapporteur concurs with UNICEF that the establishment of the CEAWC is a concrete indication of the political will of the Government of the Sudan to deal with abductions. He welcomes the initiative and will closely monitor the situation in order to report thereupon. The Special Rapporteur also hopes that the CEAWC will address the widespread concerns raised by a number of human rights circles regarding the existence of slavery-like practices arising chiefly from the abduction of women and children in the war zones.

54. The Special Rapporteur feels strongly that the solution to this situation must include, on the one hand, the retrieval of the abductees followed by their reunification with their families and, on the other hand, energetic measures to prevent and end unlawful practices, such as raids by armed militias, perpetrated against women and children.

### 3. Humanitarian aid and access to the population in need

55. The Special Rapporteur reiterates his concern that the military tactics used by both principal parties to the conflict, already responsible for the humanitarian crises which required the largest emergency relief operation in the world in 1998, are still in use and continue to threaten the civilian population. Natural disasters such as the drought in 1998 and the recent widespread floods in 1999 are an aggravating factor. Moreover, abuses committed during the conflict have also claimed victims among the humanitarian assistance workers themselves.

56. A report issued in early 1999 by a well-known human rights organization analyses the links between military practices, human rights violations and the famine in 1998. It notes that abuses such as looting of and attacks on civilians, theft of cattle, burning of crops and homes, abduction of women and children, raids, bombings, as well as the diversion of civilian relief aid, have been reported repeatedly throughout the conflict. In addition, on 4 February, the Government imposed a ban on all relief flights into the rebel-held territory of Bahr el Ghazal which lasted essentially until 31 March, severely hampering the OLS cross-border operation which provides assistance to civilians. Other types of restrictive measures imposed by the parties have repeatedly obstructed or delayed humanitarian assistance operations. In this connection, WFP stated in May 1999 that a deterioration in the security situation, coupled with the effects of a severe drought, could easily precipitate a further humanitarian crisis.

57. In recent months, the Special Rapporteur has received information from a number of reliable sources concerning security incidents which have impeded the delivery of food and assistance to the needy population, thereby increasing their already precarious living conditions. The regions most affected by insecurity are western Upper Nile, the theatre of the current oil-related strife, Bahr el Ghazal, the areas near the Eritrean border and West Darfur. Moreover, in early September, alarming reports were received to the effect that more than 100,000 people were in urgent need of assistance as a result of the severe floods, especially in the northern part of the country.

58. The Special Rapporteur was informed that in May, at the meeting of the Technical Committee on Humanitarian Assistance (TCHA) in Oslo, the SPLM agreed to extend its unilateral ceasefire in Bahr el Ghazal until 15 October, pending the outcome of the IGAD peace talks. The Government, which had previously agreed to extend its ceasefire until the peace talks, refused to extend it further claiming that no one in its TCHA delegation had the authority to do so. Further to the IGAD talks, the SPLM reconfirmed its extension to 15 October. On 5 August, the Government also declared a comprehensive ceasefire until 15 October.

59. The Special Rapporteur regrets that there has never been a ceasefire agreement per se, but rather concurrent unilateral ceasefires that have overlapped in a number of geographical areas, mainly Bahr el Ghazal. The lack of an actual agreement and the consequent absence of terms and conditions has caused many problems. The ceasefires have been violated by both parties on many occasions, but mostly by the government militias in their raids on villages in northern Bahr el Ghazal and along the Babanusa-Wau rail line. The Special Rapporteur was also informed that there has been no ban on flights to the area during the ceasefire, and that there has been only one case of aerial bombing. Both circumstances represent an improvement. It is unfortunate, however, that despite the overlapping unilateral ceasefires declared in Unity State/western Upper Nile, the Government has recently imposed a ban on flights and a number of locations are reportedly being bombed quite heavily at the moment.

### 4. United Nations humanitarian assessment mission to the Nuba Mountains

60. The Special Rapporteur was informed that on 22 May, the Government of the Sudan agreed to authorize the United Nations to send its first humanitarian assessment mission since the early 1980s to the SPLM/A-held areas of the Nuba Mountains in South Kordofan. The aim was to appraise the humanitarian needs of the vulnerable civilian population in five villages in the area. The United Nations had negotiated access to the area with the Government and the SPLM, which declared a four-day ceasefire, the first ever in the region. The Secretary-General, who had appealed personally to the Minister of External Relations to allow the United Nations to visit the area during a brief visit to Khartoum on 9 May 1998, expressed his satisfaction and welcomed the cooperation extended to the mission by both the Government and the SPLM/A.

61. The mission reported significant humanitarian needs, particularly for the many displaced people, in the areas of food security, water, health and basic education, as well as malnutrition among children, but no signs of widespread famine. Reportedly, the existence of a basic subsistence economy would allow the population to cope. The rains, however, remain a key factor; in 1997, the lack of rain was responsible for widespread famine in the area.

62. The mission stressed the need for targeted food aid as well as seeds and tools and reported a worrying scarcity of water supply in the dry season, as well as a paucity of drugs and medical supplies in the three primary health care clinics in the area. Also, the mission found that schools were not easily accessible and extremely rudimentary. The mission advised that special attention be given to the plight of women and children who suffered from trauma owing to exposure to the conflict and needed treatment.

63. The mission also proposed follow-up action, particularly in terms of assessment surveys, the first one of which should be undertaken by WFP. Further assessments should focus on health and nutrition, water and education. In this connection, the Special Rapporteur deems it important that an effective plan for assistance be implemented which would also include the protection of the human rights of the population.

64. The Special Rapporteur was pleased to learn that negotiations had already started for follow-up access to deliver the humanitarian assistance as well as to develop a comprehensive approach to humanitarian interventions in all areas of South Kordofan State, covering both the Nuba Mountains areas controlled by the Government of the Sudan and by the SPLM/A. The Special Rapporteur hopes that this historic development will lead to the effective and unhindered access to the people of the Nuba Mountains, in order to improve their living conditions and the protection of their human rights.

### 5. Ceasefire violations

65. The Special Rapporteur regrets that he has received information according to which the belligerent parties, in particular the Government, have perpetrated abuses which also constitute breaches of their respective ceasefire commitments, thereby jeopardizing humanitarian assistance and increasing the suffering of the civilian population. As described below, most of the violations have been and continue to be recorded in the context of the oil-related conflict. The use of weapons, including landmines, against the civilian population continues to be a matter of utmost concern.

66. The Special Rapporteur was informed that in early May, in a 10-day offensive, government forces swept through Ruweng county in western Upper Nile, attacking and killing scores of civilians with Antonov bombers, helicopter gunships, tanks and artillery, abducting hundreds and burning over 6,000 homes, with a view to clearing a 100-km swathe of territory around the oilfields. The bombing of Yei in May by government forces destroyed property worth US$ 10,000 in the compound of an NGO working with UNICEF on demining and mine awareness programmes. One of the trainees was reportedly wounded. On 16 May, 24 cluster bombs were reportedly dropped on Akak, in Twik county, next to a WFP relief distribution site, killing a 10-year-old girl and injuring a boy. The next day, more bombs were dropped on Nyamlell, Aweil, as well as on Ikotos, eastern Equatoria. On 20 May further attacks took place in Yei and Kajo Keiji, western Equatoria, where three people were reportedly killed. On 31 May and 1 June Narus was bombed. On 3 June Ikotos was bombed again.

67. The Special Rapporteur also learned that survivors of raids were living in the bush without shelter, food or water and with no medical supplies. The displaced say that government troops deliberately burned their food stores and killed their livestock to make it impossible for them to stay in the area. The region receives little aid from the West and thousands now face slow death from starvation.

68. The Special Rapporteur was informed that on 2 June a Sudanese plane allegedly bombed a small town in the north of the Democratic Republic of the Congo, killing up to 24 people, wounding at least 19 and destroying 14 houses. Rebels of the Congolese Liberation Movement have reported that a Sudanese Antonov cargo plane dropped six bombs on Binga, about 1,200 km north-east of Kinshasa. Both the Congolese Liberation Movement and the Congolese Rally for Democracy have alleged that Sudan is supporting the troops of President Kabila.

69. In another attack, on 20 June, four bombs were dropped on Kajo Keji, western Equatoria, one of which fell inside the Médicins Sans Frontières (MSF)-Switzerland compound and another on hospital grounds. UNICEF/OLS reported that the bombs, which did not explode, were believed to have been cluster bombs. As it is well known that Antonovs fly at an altitude of well over 3,000 metres to avoid anti-aircraft fire, thus scattering their bombs in a very inaccurate fashion, it would seem that the hospitals were deliberately targeted. Hospitals are usually run by international humanitarian organizations, in this case the Norwegian People's Aid. On the same day, six bombs were dropped on Yei and Moridi but no casualties were reported.

Yei is the base of SPLA military operations in western and eastern Equatoria.

70. In July, the ceasefire was again broken. In the first instance, the Government accused southern rebels of violating the ceasefire by attacking an army convoy in south-western Bahr el Ghazal. No casualties were reported. In the second incident, the Umma Liberation Army reportedly attacked a government army convoy east of Kassala town (250 miles east of Khartoum). Reportedly, three officers were taken prisoner.

71. The Special Rapporteur was also informed that government Antonov aircraft coming from Juba dropped several bombs on Loka and Kaya in Equatoria late at night. Several attacks took place between 21 and 23 July in Lainya, causing hundreds of people to flee. At least 36 people were hospitalized and demonstrated symptoms ranging from severe eye and skin irritation and respiratory problems to violent vomiting of blood. Some deaths were also reported. All humanitarian aid agencies under the umbrella of the OLS suspended their work in the area for safety reasons. Some NGOs reported that on 30 July, a WFP team was sent to the affected area and took blood samples from possible victims, but expressed their disappointment that no inquiry was undertaken by the United Nations. Also, late in August, the SPLA expressed regret that its appeal to the United Nations to set up an independent committee of experts to investigate the bomb attacks had gone unheard.

72. With reference to abuses which have been attributed to the SPLA, the Special Rapporteur was shocked to learn that four Sudanese nationals, three government officials and a Sudanese Red Crescent tracing officer travelling with an International Committee of the Red Cross (ICRC) team in southern Sudan, were abducted and subsequently reportedly killed while in the custody of the SPLM/A. It transpired that on 18 February, the ICRC team, which was undertaking a mission in the vicinity of Bentiu, Unity State, inadvertently crossed into SPLM/A-held territory. The four Sudanese and two expatriates were captured around the village of Kong in the Pariang area, north of Bentiu town. On 12 March, the two expatriates were released. Despite its efforts, the ICRC was not able to secure the hostages' release. ICRC President Cornelio Sommaruga repeatedly urged the SPLM/A to free the abductees, including during the visit to Geneva on 22 March by SPLM/A Chairman John Garang on the occasion of the fifty-fifth session of the Commission on Human Rights. None of his appeals was heeded. The four Sudanese were reportedly killed on 31 March. The ICRC, convinced that the SPLM/A should be held accountable for the incident, demanded a full inquiry to shed light on the events and the full cooperation of the SPLM/A in repatriating the four bodies to allow for a decent burial.

73. Despite widespread international condemnation of the deaths, including by the United Nations, the SPLM/A firmly denied responsibility, declaring that those killed had been caught "in a crossfire during an attempted rescue operation by the Government of Sudan's forces" and that the Sudanese victims "were not ICRC liaison officers but definitely on a spying mission". Moreover, the SPLM/A blamed the ICRC for failing to notify the SPLM/A authorities when the officials would travel by road from the Government-held town of Bentiu to Pariang, adding that the ICRC had violated agreed procedures not to transport non-ICRC personnel. The SPLA refused to return the bodies.

74. The Special Rapporteur wishes to join all those who urged the SPLA and the Government of the Sudan to allow for an independent investigation of the case and appeals to the SPLA to return the bodies of the four victims. Should this not happen, the Special Rapporteur will consider the SPLA responsible for the incident, which constitutes a serious violation of humanitarian law.

### 6. Conflict in the oil zones

75. The economic, political and strategic implications of the oil issue have seriously compounded and exacerbated the conflict and led to a deterioration of the overall situation of human rights and the respect for humanitarian law, as well as further diminishing the already slim chances for peace.

76. The oil-rich southern region of western Upper Nile is inhabited mostly by Nuer, the second-largest tribe in the south, and by a minority of Dinka, the largest tribe in the south. In 1984, following an attack against oil facilities and personnel by the SPLA, oil production was suspended, leaving the country dependent on imported petroleum. With the beginning of operations by the consortium in mid-1998 bringing the prospect of substantial revenues, the presence of oil — and the question of who controls it — has played an increasingly crucial role in the civil war. In this context, the assertion by the opposition that oil-related operations and facilities should be considered military targets and that attacks on the oil industry would be carried out should exports begin before a peace settlement is reached should not be taken lightly. A number of oil-related sabotage incidents have already taken place. The most spectacular occurred on 20 September 1999, only three weeks before the first planned export of oil, when a section of the Heglig-Port Sudan pipeline was blown up by the NDA about 350 km north of Khartoum in Government-controlled territory.

77. According to certain accounts, long-term efforts by the various Governments of the Sudan to protect oil production have included a policy of forcible population displacement in order to clear oil-producing areas and transportation routes of southern civilians, who were suspected of supporting sabotage actions by the SPLA. Reports received by the Special Rapporteur would indicate that this policy is still in effect. As recently as May 1999, many villages on the eastern edge of Heglig were attacked and burned to the ground by the Sudanese army, causing the displacement of some 1,000-2,000 civilians. The SPLA has a presence among Dinka living in Ruweng county, a pocket of western Upper Nile bordering on Heglig; this was the site of the capture and summary execution of the four Sudanese. Human rights observers on the spot were told by survivors of the Ruweng offensive in May (see para. 66) that government bombers, helicopter gunships, tanks and artillery were used against unarmed civilians to clear a 100-km area around the oilfields. Witnesses reported that over 1,000 government soldiers swept through Ruweng county, wreaking human and material destruction, including destroying 17 churches.

78. Numerous voices were raised, especially among human rights circles based in Canada, accusing the oil consortium of being the direct beneficiary and passive accomplice of government abuses against the civilian population. The consortium relies entirely on the government army and its militias for security in Heglig and Unity for the pipeline.

79. Although the consortium's concessions in Heglig and Unity are not in the midst of the fighting, most of the military action and increased human rights abuses in the oil-producing areas during 1998 and 1999 have been directly related to the struggle between the Government, working through proxy Nuer militia leader Paulino Matiep, and its southern ally, the United Democratic Salvation Front (UDSF), political arm of the South Sudan Defence Force (SSDF), headed by Dr. Riek Machar, also a Nuer, over which will provide security for the oil operations in Block 5A south of Bentiu. This is a crucial issue since the consortium's pipeline must be extended to that area in order for production to proceed. Since May, all oil-related activities south of Bentiu have been suspended indefinitely due to the fighting.

80. In 1998 the fighting between the two contenders raged until September, despite several ceasefires. Reported abuses included looting and burning by the Matiep forces and substantial civilian displacements that put thousands of Nuer at risk of famine. In 1999, the civilian population has again been the victim of similar and new abuses, mostly by Matiep forces but with the government army allegedly playing a more direct role in the fighting. Abuses inc'uded the abduction of very young boys to use as soldiers, abduction of girls and women for sexual abuse, and a number of summary executions of women, never recorded prior to 1999.

81. The UDSF/SSDF is one of the six former rebel groups that signed the peace agreement with the Government in April 1997 providing for a southern referendum on self-determination. Despite the agreement, the Government has followed a consistent policy of fragmenting the Nuer, who are on the Government's side of the civil war. Nuer warlord Paulino Matiep was separately armed by the Government, essentially to guard the perimeter of the Heglig and Unity oilfields. Dr. Machar, who claims responsibility in Block 5 A and other oil areas in accordance with the terms of the agreement, objected to the presence of both Matiep and government forces in the area. The Government deployed troops there anyway, leading to inter-factional armed confrontations. In this connection, note should be taken of Dr. Machar's assessment of the Sudan peace agreement which he addressed to the Government on 25 May 1999, in which he noted a series of government violations, including the issue of Block 5 A, and questioned whether the agreement could still be considered valid.

82. On 2 May 1999, the SSDF attacked Matiep and government troops upon their arrival at Block 5 A, and took captive 23 Chinese technicians working on the pipeline. Fighting caused the massive flight of some 3,000-4,000 civilians towards the south. In June, Matiep forces reportedly assassinated two state ministers affiliated with the Machar faction, Dinka traders and others in Bentiu. In July, the SSDF chased Matiep out of the area and the Government intervened with Antonov planes to halt the SSDF's advance. Further reports reached the Special Rapporteur that in September, 10 people were killed during renewed violence between pro-Government militia groups in Unity State. According to the same source, around the same time five chiefs, a Presbyterian Church evangelist called Diu Yout, a female leader called Nadeo Galuak, two other women and an 80-year-old man were killed by forces loyal to Paulino Matiep.

83. There are preoccupying indications which would tend to confirm the policy of fragmentation: the Government is said to be arming various other Nuer would-be warlords who are fighting mainly other Nuer, destroying property and killing civilians. Allegedly, the Government's motive is to keep the oilfields, located in Nuer territory, under its control by distracting the Nuer and discouraging solidarity in the south.

84. Although not yet fully elucidated, the assassination of warlord Kerubino Kwanyin Bol around 11 September 1999 might be seen to fit into this context. Though a Dinka, Bol was notorious for shifting alliances and for having sought safe haven in Paulino Matiep's stronghold among the Nuer people in western Upper Nile. Bol's assassination reportedly provoked a series of Dinka-Nuer tribal clashes in south Khartoum between 23 and 26 September, which claimed more than 10 lives among both tribes, including a woman who was knifed, and in which several people were abducted, including a pregnant woman. The Special Rapporteur is especially concerned that this violent revival of tribal friction between the Dinka and Nuer communities could compromise the current Nuer-Dinka reconciliation process (see para. 36).

85. The oil issue and the extremely volatile situation prevailing in western Upper Nile are clearly at the core of the armed conflict in the Sudan and have particularly dire consequences for peace. The Special Rapporteur must once again express deep regret that the civilian population are the principal victims of the conflict and of the human rights abuses and violations of humanitarian law which are being perpetrated.

## B. The 1998 Constitution and the transition to democracy

86. In April 1998, the new Constitution was adopted by the National Assembly. A national referendum was then held and the electoral commission announced a 96 per cent vote in favour of the Constitution in a national turnout of 91 per cent. Some observers, however, reported a lower turnout and claimed that the referendum had been rigged. Furthermore, the Special Rapporteur was informed that the referendum was not held in those areas which remain under the control of armed opposition organizations, such as large areas in southern Sudan, Blue Nile State and parts of South Kordofan.

87. In the course of his visit, the Special Rapporteur had the opportunity to discuss the new Constitution with both governmental and non-governmental actors.

88. The Constitution contains a Bill of Rights and other innovative provisions, such as the newly acquired right of Sudanese women to pass their nationality on to their children regardless of the nationality of the father. It has also prompted a need to adjust existing legislation and to enact new laws to conform with its principles. According to some observers, the Constitution has given new energy to the public debate and created an opportunity for renewal that should not be missed. On the other hand, for the political opposition, it constitutes another instrument to maintain the power of the official party.

89. The Special Rapporteur was informed that the Constitution was open to amendment and interpretation. In this context, in his report to the fifty-fifth session of the Commission on Human Rights, the Special Rapporteur submitted his observations which he reaffirms in the following paragraphs.

### 1. Legal analysis

#### (a) Sources of legislation

90. Part IV, chapter 1, of the Constitution delineates the general principles of the legislative branch. Article 55 enshrines the sources of legislation as: "Islamic law and the consensus of the nation, by referendum, Constitution and custom". No mention is made therein, nor in other constitutional provisions, of the status of international human rights treaties ratified by the Sudan. The only reference is in article 73 (d), which states that it is a function of the National Assembly to "pass bills ratifying international conventions and agreements". The Special Rapporteur would welcome clarification on this matter, which he considers key for the enforcement of international human rights standards in the Sudan.

91. Part II, chapter 1, of the Constitution provides for most of the rights set forth in the International Covenant on Civil and Political Rights, to which the Sudan is a party. Protections omitted from the Constitution include prohibition of detention for debt, prohibition of propaganda for war and advocacy of hatred, and freedom of assembly. The Special Rapporteur reiterates his invitation to the Government to amend the Constitution accordingly.

92. It was brought to the Special Rapporteur's attention that many provisions in this section of the Constitution include clauses that may potentially limit the right guaranteed. Specifically, article 20 ("Freedom and sanctity of life"), article 23 ("Freedom and right of movement"), article 24 ("Freedom of creed and worship"), article 25 ("Freedom of thought and expression"), article 26 ("Freedom of association and organization"), article 29 ("Inviolability of communication and privacy") and article 31 ("Right and sanctity in litigation") guarantee the respective rights without restriction "save in accordance with the law". Interlocutors outside of the Government noted that the corresponding laws have yet to be enacted and concern was expressed that future legislation may unduly restrict the rights guaranteed by the Constitution. The Special

Rapporteur would encourage the Government to take the necessary steps to ensure that all future legislation enacted concerning these rights remains consistent with the obligations of the Sudan under the international human rights treaties to which it is a party.

93. The Special Rapporteur is also concerned that several provisions of the Constitution are vague. Article 30 ("Immunity against detention") should be developed further and incorporate elements of article 9 of the International Covenant on Civil and Political Rights, in particular those to the effect that no one shall be subject to arbitrary detention and that everyone has the right to be informed of the reasons for his or her arrest at the time of arrest and promptly informed of any charges against him or her. Moreover, the right to be brought before a judge or other officer authorized by law to exercise judicial power to determine the legality of the detention, and the right to benefit from a trial without undue delay, should also be spelt out. Further, persons who have become the victims of unlawful arrest or detention should have an enforceable right to compensation. Indeed, in the course of his visit, the Special Rapporteur noted that arbitrary arrest and detention, especially by the security forces, are a major problem in the Sudan.

94. The Special Rapporteur is also of the opinion that article 32 of the Constitution guaranteeing the right to be presumed innocent and to legal defence should be more clearly articulated and encompass guarantees provided for in international standards. Once again, the Special Rapporteur would encourage the authorities to seek guidance from the International Covenant on Civil and Political Rights, specifically article 14.

95. The Special Rapporteur was informed that the initial draft constitution tabled at the National Assembly provided, in article 41, the right of assembly and association. This was replaced by article 26, section 1 of which states: "Citizens shall have the right of association and organization for cultural, social, economic, professional or trade union purposes without restriction save in accordance with the law." In the Arabic version the term *Tawali* is used for political association. As already noted in his report to the Commission, the term *Tawali* is extremely ambiguous; at no point is the term defined, in either the Constitution or the newly enacted legislation. This has created some concern in certain quarters of Sudanese society about the intentions of the Government and how much diversity will in fact be accepted.

96. The "Law on the Regulation of *Tawali*" — law on political parties — came into force on 1 January 1999. Section 3 of this law reads, "Every association in political movement must adhere to [the] ideology of *Al-Ingaz* [Salvation]." *Al-Ingaz* is the term the regime uses for itself. Thus, critics note, this provision requires that all political organizations must agree to adhere to the ideology of the ruling party in order to be registered. Section 3 also provides, "Every association should not discriminate against members because of race, colour, heritage, sex, class or political residence." Notably, the law makes no mention of religion or language. Therefore, if misapplied, the law could allow a political association to discriminate on the basis of religion or language.

97. The Special Rapporteur was informed that some 33 political parties have already registered under the new system. He welcomes this trend and will continue to gather information on the implementation of this law. It must be noted, however, that traditional northern Sudanese parties, in particular the Umma Party and the Democratic Unionist Party, have not registered, nor has the Communist Party been allowed to register. The Special Rapporteur wishes to reaffirm that article 26 of the Constitution should reflect the guarantees set forth in article 25 of the International Covenant on Civil and Political Rights, namely the right of every citizen to have the opportunity, without discrimination, to take part in the conduct of public affairs, directly or through freely chosen representatives, to vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage, held by secret ballot, and to have access to public service, on general terms of equality.

98. Article 21 of the Constitution provides for the right to equality. However, as it stands at present, the Constitution seems to have taken a minimalist approach, as it forbids discrimination "only by reason of race, sex or religious creed". The Special Rapporteur reiterates his invitation to the legislator to consider extending the non-discrimination clause to all categories envisaged in international standards (race, sex, language, religion, political or other opinion, national or social origin, property, birth or other status), and to apply it uniformly throughout the Sudanese body of laws.

99. Although the Constitution sets out freedom of creed and religion quite strongly in article 24, the most serious criticism of the Constitution is that it is perceived by many as establishing a theocratic State. This would be unacceptable to a large segment of society and would be a serious impediment to reaching a settlement of the ongoing conflict in the south, since one demand of the SPLA is the establishment of a secular State.

**(b) Separation of powers: independence of the judiciary**

100. An independent and impartial judiciary is a prerequisite for respect for the rule of law and the protection of individual rights against abuse of power on the part of the executive or legislative branches of Government. Article 101(1) provides that "judges are independent in the performance of their duties and have full judicial competence with respect to their functions; and they shall not be influenced in their judgements". However, the Constitution also assigns wide-ranging powers to the President who, with the consent of the National Assembly, can appoint members of the Constitutional Court, the Chief Justice and his deputies, as well as lower court judges, upon the recommendation of the Supreme Council of the Judiciary. It is the opinion of the Special Rapporteur that it would be preferable for the Supreme Council of the Judiciary to exercise control over the selection and appointment of all judges. The law regulating the Supreme Council should empower it to be a truly independent organ of self-government of the judiciary.

**(c) Review of existing legislation**

101. The promulgation of the Constitution has made necessary a review of all existing legislation to ensure its compliance with both the letter and the spirit of the Constitution. During his visit to the country, the Special Rapporteur was provided with a list of 15 Acts that are being considered for review by the Constitutional Court. These laws regulate a wide variety of matters. The Special Rapporteur acknowledges the efforts of the Government of the Sudan and trusts that the process of revision will also take into account the international human rights obligations the Sudan is bound by. The Special Rapporteur notes that article 140(5) of the Constitution states that "until the issue of new measures in accordance with the provisions of the Constitution, all laws shall continue" and that it fails to provide a time-frame for the completion of the review process. In this connection, the Special Rapporteur wishes to reaffirm that certain laws, particularly the emergency legislation, should be reviewed as a matter of absolute priority.

**(d) Emergency legislation**

102. The Special Rapporteur was informed that the emergency legislation is no longer in force in the north of the Sudan, whereas it still applies in selected states in the south. An armed conflict may justify the enactment of a state of emergency. Nevertheless, the Special Rapporteur, in line with what he stated in his report to the Commission on Human Rights, further invites the Government of the Sudan to minimize the use of the state of emergency and recalls that article 4(3) of the International Covenant on Civil and Political Rights provides that States parties to the Covenant "shall inform the other States Parties, ... through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation". In the absence of such a communication, the Special Rapporteur considers the Government of the Sudan to be bound by the International Covenant on Civil and Political Rights as a whole.

**(e) The 1994 National Security Act**

103. Security forces appear to have the upper hand in public life in the Sudan. The Special Rapporteur received many comments suggesting that the security forces are above the law and that they are the real rulers in the country. According to some observers, the Sudan has all the characteristics of a police State. People are subjected to arbitrary arrest and detention at the hands of the various security forces, which have virtual impunity. The 1994 National Security Act and its amendments indeed provide a framework for impunity and lawlessness and fall far short of the standards provided for in the Bill of Rights enshrined in the 1998 Constitution, let alone international human rights standards. The Act grants security forces virtual immunity from prosecution and provides them with investigative powers that allow arbitrary arrest, incommunicado detention, lengthy detention without judicial review and arbitrary search. The National Security Act is included in the list of laws to be reviewed by the Constitutional Court. The Special Rapporteur requested that this law be dealt with immediately and in a manner consistent with the highest international standards.

104. The Special Rapporteur had been informed that on 14 July 1999 the National Assembly passed a revised National Security Act, whose main features are changes in the system of detention and the creation of a Minister of National Security Affairs. In response to a request from the Special Rapporteur, the Government sent some preliminary information concerning this legislation, called the National Security Forces Act of 1999, which is

> "intended to guarantee maximum safeguards to human rights to comply with the new Constitution of 1998. The new Act provided for judicial review of any actions undertaken under the Act. Section (31) of the

Act provides for the power of any security member designated by the Director of the Security Bureau to detain only for a term of three days for the sake of investigation. Thereafter, only the Director is authorized to extend such term for not more than one month and after informing the specialized Prosecuting Attorney. The Director, upon the approval of the Prosecuting Attorney, and as the national security requires, may order the renewal of the detention for a term not exceeding 30 days if an evidence has been raised against the detainee for committing an offence against the State, provided that this power of the Director cannot be delegated. The section further provides for the right of the detained person to challenge the warrant of his detention before a competent judge, who will take the appropriate measure after investigating the causes of detention. In an unprecedented step, the Act provides for the appointment of a Minister for Security Affairs so as to be responsible for the proper implementation of the Act before both the National Assembly (the Parliament) and before the Council of Ministers."

105. The Special Rapporteur acknowledges and appreciates the information provided by the Government on the amended National Security Act.

#### (f) Other security concerns

106. The Special Rapporteur regrets to find the Popular Forces, a form of legalized armed militia, enshrined in article 25 of the Constitution. Militias have historically played a destabilizing role in low-intensity conflict in other regions of the world. Furthermore, other forms of security or policing forces, such as the public order police, accompanied by the dictate of article 35(2) of the Constitution, that "the duties of a citizen shall be a general obligation observed by conscience and by a vigilant society", could pave the way to obscurantism and repression. In this connection, the Special Rapporteur received consistent information that the Government of the Sudan is providing arms and ammunition to paramilitary groups such as the Murahalleen which are commonly held responsible for gross violations of human rights and international humanitarian law.

### 2. Abuses of political rights

107. As indicated in paragraph 13 above, in his report to the Commission the Special Rapporteur regretted that the adoption of the new Constitution was overshadowed by the curtailment of a series of political freedoms, abuses such as arbitrary arrests and detentions without due process, targeting in particular human rights advocates, as well as political, religious and student leaders. The Special Rapporteur also reported cases of torture. In this connection, and further to the presentation of his report to the fifty-fifth session of the Commission on Human Rights, the Special Rapporteur was disappointed to learn about a number of arrests and detentions of journalists, in what was described as a crackdown on the media. Also, the Special Rapporteur was disturbed at the recurrence of arrests of human rights defenders and threats to the right of free assembly and speech, including during the fifty-fifth session of the Commission on Human Rights. The Special Rapporteur deems that this is even more unfortunate as the Commission, in resolution 1999/15, had welcomed reports of improvements in freedom of expression and association. The Special Rapporteur would like to highlight that such a crackdown represents a serious obstacle to democracy and respect for human rights.

108. Further details about specific cases are provided in chapter IV, section E, of the present report, relating to reported specific violations of human rights.

## C. Women's rights

109. While the Special Rapporteur welcomed the appointment of a woman as ambassador and the employment of women in government offices, he noted that harassment of women continued, particularly with respect to dress-code-related issues, based on the Public Order Law. On the other hand, the Special Rapporteur was pleased to learn that some restrictions on women travelling abroad had been lifted. The Special Rapporteur particularly welcomed the Government's stand on the issue of female genital mutilation although he noted that some women's NGOs complained that no initiative has been taken to eradicate this practice.

110. The Special Rapporteur expressed particular concern at prison conditions after he learned that in May 1999, 827 women who had been charged with illegally selling alcohol were released from Omdurman prison following the deaths of 16 children who were in the facility with their mothers and who reportedly died owing to the poor health conditions and overcrowding. It was also brought to the Special Rapporteur's attention that in early May, three women who were being detained in Omdurman prison went on hunger strike to protest the Government's decision to prevent inmates from receiving food from outside. The Special Rapporteur was informed that the three inmates were all in very poor health but were receiving little medical assistance.

## D. Rights of the child

111. The Special Rapporteur took note of the recent mission to the Sudan by the Special Representative of the Secretary-General for Children and Armed Conflict, as well as his speech to the Security Council on 25 August in which he mentioned, among others, the conflict in the Sudan. In this connection, the Special Rapporteur was pleased to learn that both the Government of the Sudan and the SPLM/A have undertaken several commitments to enhance the protection of war-affected children, such as to cease using anti-personnel landmines in the southern conflict areas; to make the protection of children a priority in the IGAD-sponsored peace talks; and to address issues like the prevention of the recruitment of children, in particular the release and repatriation of children abducted from northern Uganda to take part in the Sudanese conflict, the demobilization and reintegration of child soldiers, the weakening of traditional family structures and children's access to basic social services and education.

112. However, the Special Rapporteur wishes to express serious concern at reports received of the imminent destruction of four schools in the Hajj Yousif district of Khartoum, namely Kassala New School, Kassala School, Jongley School and Hilla Gadida School, which would result in the displacement of more than 3,000 students, depriving them of their human right to education. The destruction also threatens to deprive the students, their families and the Catholic Church, which owns and operates the schools, of their right to the property in the schools.

113. In this connection, the Special Rapporteur wishes to refer to reports received concerning hundreds of people, mainly children, crossing into the Sudan from the Chukudum area of northern Uganda. A joint UNHCR-Ugandan government mission confirmed the presence of 345 people, mostly unaccompanied children, who had crossed the border at Kawalakol and were looking for schools to attend as their schools at home had been closed because of the war.

## E. Other reported violations of human rights

114. In his report to the Commission, the Special Rapporteur presented a list of selected cases illustrating human rights abuses other than those committed in the context of the armed conflict. A large proportion of the cases were related to urban situations, occurring in the capital and other areas in the northern part of the country. Since the presentation of that report, the Special Rapporteur has continued to receive allegations, some which are highlighted below.

### 1. Torture and extrajudicial killing

115. Several allegations of torture and ill-treatment were submitted to the Special Rapporteur as well as cases of cruel, inhuman and degrading treatment being imposed on individuals by Sudanese courts. Many of these cases have been reflected in his previous report to the Commission. Further to his visit to the country, and as mentioned in his previous report, the Special Rapporteur has received new allegations of cases of torture and reports indicating that torture continues to be practised widely by the security forces.

116. The Special Rapporteur was informed that Mohamed Abd Al Seed, 53, a correspondent for the London-based Arabic-language newspaper *Al-Sharq Al-Awsat*, was arrested by security forces in mid-April in Khartoum. He was held incommunicado and severely tortured throughout his detention. The Special Rapporteur was informed that Mohamed Abd Al Seed had been released without charge or trial on 26 May 1999. However, he was in urgent need of medical treatment, owing to infected wounds on his arms and legs resulting from ill-treatment while in detention.

117. In June 1999, the Special Rapporteur was informed that Adam abd al-Rahman Hussain, Mohamed Issa Tiato, Mohamed Hamed Ahmed, Fadul Adam abd al-Rahman, Abd Allah Rabih Fadul, Siddieg Suliman Abakar, Mohamed Ibrahim abd Allah, Mohamed Abakar Shigaifat and Ali abd al-Rahman Idris had been sentenced to cross-amputation, i.e. amputation of the right hand and left foot, and death by hanging, followed by crucifixion, reportedly in accordance with Sudan's Penal Code, for bank robbery. The Special Rapporteur was also informed that these individuals had been deprived of food and sleep and forced to do strenuous exercise in the heat. The Special Rapporteur wishes to recall the relevant points of the concluding observations (CCPR/C/79/Add.85) adopted by the Human Rights Committee concerning the death penalty and other criminal penalties applied in the Sudan.

118. The Special Rapporteur was further informed that Sidieg Ibrahim abd al-Khier, who was acquitted of the same charges as the nine men mentioned above, became blind as a result of the torture to which he was subjected while in detention.

119. The Special Rapporteur would like to recall a case, which he reflected in his previous report to the Commission, concerning Mohamed Abdesalam Babiker, a fourth-year law student who died of a brain haemorrhage resulting from

repeated beating on the head with sharp instruments. The Special Rapporteur sent a letter to the Sudanese authorities requesting that light be shed on allegations of harassment of Mr. Babiker's family. On 4 August, the first anniversary of Mr. Babiker's death, the Special Rapporteur reiterated his request to the Government of the Sudan.

### 2. Women's rights

120. The Special Rapporteur was informed that on 13 June, 24 students of Ahlia University in Khartoum, all members of the Nubian Students Association, were arrested by security officers and public order police in Buri, south-east of Khartoum, during a picnic which had been authorized by both the university administration and the local authorities. All the young women of the group, aged 18 to 23, were convicted of wearing an indecent or immoral uniform causing annoyance to public feelings and were sentenced to 40 lashes and fines of up to US$ 20. Some of the young women were sexually harassed.

### 3. Military trial of 27 southerners accused of participation in bombing

121. The Special Rapporteur devoted considerable attention to this case in his report to the Commission on Human Rights. In the report, the Special Rapporteur described the circumstances of the arrest and detention on 29 July 1998 of Father Lino Sebit and, on 1 August 1998, of Father Hillary Boma, a known critic of the Government and Chancellor of the Roman Catholic Archdiocese of Khartoum. In the following days another 25 persons, all southerners, were arrested. All 27 were indicted on charges of conspiracy in connection with a bombing in Khartoum in June 1998 and held in a secret detention place. Only 21 of them appeared before the Special Military Court on 5 October 1998 and met for the first time with their defence counsels the following day. They all declared to have been tortured and confessions extracted under duress. During his visit to Khartoum, the Special Rapporteur was able to meet with these 21 people, thanks to arrangements made by the Advisory Council on Human Rights. In January 1999, the hearing was adjourned for appeal to the new Constitutional Court on the competence of military court jurisdiction over civilian defendants.

122. In September 1999, the Special Rapporteur was informed by the Government of Sudan that "in connection with the trial of the persons accused of the bombing of Khartoum on 30 June 1998 before the Military Court, the Constitutional Court issued a decision to the effect that the accused should be tried before an Ordinary Military Court and not [a] Field Military Court." The decision implies that the previous proceedings before the Field Military Court are invalid. It must be noted that according to other information received, the Sudanese Minister of Justice had advised that the case should be transferred from a military to a civil court.

123. The decision of the Constitutional Court, confirming the military court's jurisdiction over civilians, has been received with energetic disapproval on the part of distinguished legal personalities and associations. Furthermore, preparations are under way to submit the case to the African Commission on Human and Peoples' Rights, alleging violation of almost every relevant article of the African Charter.

124. The Special Rapporteur wishes to reiterate the urgent need for justice and fair trial in this case and that only a civil court can ensure the requirements of independence and impartiality stipulated under article 14 of the International Covenant on Civil and Political Rights. In view of the special circumstances of the case, the Special Rapporteur believes that the presence of international observers at the trial would be desirable.

125. The 21 detainees have now been in prison for well over one year. Reportedly, the conditions of detention continue to be unacceptable and the right of visit by relatives is denied. In this connection, the Special Rapporteur must recall his earlier recommendation that the authorities take rapid and appropriate measures to ensure that the detainees are given humane treatment, including the right of visit, appropriate food rations, proper medical care and reading facilities.

126. The Special Rapporteur believes that this case amalgamates an array of human rights abuses, including extrajudicial killing and torture, inhuman conditions of detention and lack of due process of law; for some observers, the case also involves religious and racial discrimination.

### 4. Arbitrary detention

127. The Special Rapporteur noted that the cases of arbitrary detention that were submitted to him in the last months were mainly related to violations of the freedom of opinion and expression, highlighting a specific pattern of harassment by the Sudanese authorities. The Special Rapporteur would like to reiterate that this is even more unfortunate as in its last resolution on the situation of human rights in the Sudan the Commission welcomed the progress made in that regard. In this connection, the Special Rapporteur would like to recall article 19 of the Universal Declaration of Human Rights and the International Covenant

on Civil and Political Rights, which stipulate that everyone has the right to freedom of opinion and expression.

128. The Special Rapporteur received information according to which Mutasim Mahmoud, chief political editor of *Al Ray Alaam* newspaper, and Maha Hassan Ali, journalist at the Sudan News Agency (SUNA), were arrested on 17 and 18 April respectively and reportedly held in incommunicado detention. The Special Rapporteur was further informed that a few days before the arrests, pro-Government papers undertook a wide campaign of hostility against journalists, claiming that there was a network of journalists in the Sudan working as agents of a foreign country. Both journalists were subsequently released.

129. During the fifty-fifth session of the Commission on Human Rights, the Special Rapporteur was informed that 40 lawyers were detained by members of the security forces on 7 April 1999 in Khartoum following a rally by members of the Sudan Bar Association. While 31 of them were subsequently released, lawyers Ghazi Suleiman, Mohamed Elzeen El Mahi, Wagdi Salih, El Taieb Idris, Mohamed Abdulla El Nago, Nasr El Din, Mamoon Faroug and Satia Mohamed El Hag were kept in detention. The Government informed the Special Rapporteur that on 8 April 1999, a court had sentenced Ghazi Suleiman to 15 days' imprisonment and a fine of about US$ 200. Reportedly, the court dropped the criminal charges against the other eight lawyers, who were all released.

130. Mustafa Abdel Gadir, a prominent member of the bar and leading private lawyer for the victims of ex-dictator Jafaar Nimeiri and their families, was arrested on the eve of Nimeiri's return to Sudan from exile in May 1999. He and two editors of *Al Ray Alaam* were charged with false accusations and insulting public servants on account of Mr. Abdel Gadir's column which was critical of the Criminal Act of 1991, the Security Act and the Press and Publications Act. They were released the evening after Nimeiri's arrival.

131. The Special Rapporteur was further informed that on 6 June, Sudanese police briefly detained 102 people taking part in a press conference in Omdurman held to announce the formation of a new political party, the Democratic Forces Front (DFF), aiming, *inter alia*, at restoring democracy, particularly freedom of expression, in the Sudan. The group was subsequently released. However, 11 people were charged with holding an illegal gathering, disturbing public order, causing a nuisance and insulting Islam. They were released on bail after six hours at Omdurman police station. The men charged included lawyer Ghazi Suleiman, veteran southern politician Toby Madut and Mohamed Ismail Al-Azhari, whose father was Sudan's first prime minister after independence. Ghazi Suleiman was reportedly arrested further to a statement he had made on the plight of internally displaced persons. Although all the detainees were subsequently released, the Special Rapporteur is disturbed by the fact that that was the fourth time since January 1999 that Ghazi Suleiman had been brought before the Public Order Court.

132. On 22 June, the Sudanese press reported that the chief editors of three Sudanese daily newspapers faced charges punishable by imprisonment following articles seen by the authorities as endangering national security. More particularly, it was brought to the Special Rapporteur's attention that the internal security adviser had filed a lawsuit against NDA chief Mohamed Othman Al Mirghani as first defendant and chief editor of *Al-Rai al-Akher*, Amal Abbas, as second defendant, on charges of breaching public peace, publishing erroneous information and inciting resistance against the regime by force. Mr. Abbas was repeatedly questioned on similar charges, together with the chief editor of *Elsharee Elsyasi*, Mohamed Mohamed Ahmed Karrar, and of *Al Usbu*, Mohi Eddin Titawe. The latter had already been briefly arrested for voicing support for the opposition Democratic Unionist Party. In this connection, the Special Rapporteur would like to further reiterate his invitation to the legislator to reconsider its position on freedom of expression and for Sudanese laws to be harmonized with relevant international standards.

133. On 27 June, the Ansar movement, the cradle of the Umma Party, reported that several members of an influential Muslim religious brotherhood had been arrested by security officials for chanting slogans against President Omar al-Bashir's regime.

134. On 5 July, the Special Rapporteur was made aware that late the previous afternoon, security officers had arrested UNICEF Programme Officer Hamid El-Basher Ibrahim at his home after searching it. Some of his personal communication equipment (phone, fax and computer) was taken. His wife, Instisar Abdelsadig, who works on issues of violence against women in the Sudan, was also arrested. Although both individuals were subsequently released, the Special Rapporteur would like to express serious concern that such a case could occur.

### 5. Freedom of the press

135. In addition to the cases of arbitrary detention affecting journalists, the Special Rapporteur has received with great concern information regarding the suspension and closing down, in July and September 1999, of a number of independent daily newspapers. More specifically, in July

1999 the National Press Council reportedly ordered that all newspapers must refrain from criticizing the new Constitution. On 31 August 1999, the Ahila Press and Publication Company, publisher of the newspaper *Al-Rai al-Akhar*, submitted a petition to the Constitutional Court against its reiterated suspensions by the National Press Council. In September 1999, some independent and State-owned newspapers — namely *al-Sahafa*, *Al-Rhai al-Akher*, *Al-Anbaa*, *Alwan* and *Al Bayan* — were suspended; on 17 September, *Al-Rhai al-Akher* was ordered to close.

## V. Conclusions and recommendations

136. As highlighted in his previous report to the Commission on Human Rights, the Special Rapporteur wishes to reiterate that he attaches the highest importance to the stated will of the Government to bring early peace to the country and to promote the transition to democracy. These two objectives are closely related to the promotion and protection of human rights and fundamental freedoms. The peace process, which is currently under way, should therefore include a human rights component, with a view to reflecting the aspirations of all segments of Sudanese society.

137. It should be stressed from the outset that during the period under review, there have been a number of significant positive steps which must, however, be placed within the framework of a situation which in general continues to give rise to grave concerns.

138. In respect of measures taken by the Government: following the adoption by the Commission on Human Rights of resolution 1999/15, the Government of Sudan adopted some measures deserving recognition and international support:

(a) Authorization for the United Nations to undertake a needs assessment mission to the Nuba Mountains. This mission marks a positive development in terms of granting greater and easier access to the needy population. The Special Rapporteur wishes to welcome the cooperation extended to the mission both by the Government of the Sudan and the SPLM/A. However, he wishes to reiterate that this opening should be followed by concrete steps to implement a programme of continued assistance, in particular to women and children, which should also address human rights concerns;

(b) The creation of the Committee for the Eradication of Abduction of Women and Children (CEAWC). The Special Rapporteur considers this to be a constructive response on the part of the Government, the participation of the international community and society. The Special Rapporteur strongly feels that CEAWC must undertake all efforts to retrieve t abducted and reunite them with their families, and adop required energetic measures with a view to preventing ending unlawful practices, such as raids by armed mil of which women and children are the primary targets;

(c) The fielding of the OHCHR needs assess mission to determine priority areas in which the Sudan n assistance in the field of human rights. The Sp Rapporteur was thoroughly briefed on the outcome o mission. In this connection, reference was made t possibility of developing a comprehensive programm technical cooperation, including the establishment permanent OHCHR representation in the Sudan. The Sp Rapporteur deems that the results achieved during mission could greatly contribute to the promotion of hu rights in the Sudan. The Special Rapporteur further beli that international technical cooperation must take consideration and follow up, as appropriate, recommendations of the mechanisms of the Commissio Human Rights. While welcoming the degree of cooper which the Government extended to the mission, he w to reiterate the importance of an adequate follow-up.

139. The above-mentioned measures, which introdu new dynamism in the human rights situation of the cou need to be accompanied by a strong political will appropriate measures in order to redress what continu be a grim picture in which government policies institutions frequently play are adversaries to the enjoy of human rights, both in the war zones and in a controlled by the State. The behaviour of the SPLA is detrimental for the full respect of human rights humanitarian law.

140. Regarding the respect of human rights humanitarian law, the Special Rapporteur reiterate concern at the prolonged war which has affected mainl civilian population, whose plight should be regarded a of the most pressing human rights concerns facing international community. As he said in his previous re although of low intensity, the war has ha disproportionally high impact on the civilian popula particularly women and children, even more so as the has been conducted with complete disregard for principles of human rights and humanitarian law b parties, the greater portion of responsibility being wit Government.

141. The violations of human rights and humanitarian law by the parties to the conflict have had a number of tragic human consequences, such as forced displacements, killings, rape, and abduction of women and children for forced labour and slavery-like purposes. The famine, which constituted such a humanitarian disaster in 1988, was also exacerbated by the continuous violations deriving from the conflict.

142. As this report illustrates, the conflict has been aggravated during 1999 by the developments in the oil zones. The strategic implications surrounding oil production have seriously compounded and exacerbated the armed conflict, resulting in the further deterioration of the overall situation of human rights and respect of humanitarian law. As described in chapter IV, the human rights abuses include extrajudicial killings and summary executions, especially between armed factions allied to the Government; forced massive displacement of the civilian population; indiscriminate and frequent use of weapons, including bombs; and the obstruction of humanitarian assistance. Although the violations are chiefly attributable to the government army and Government-sponsored militias, the SPLA has also been responsible for a number of serious violations, in particular the abduction and summary execution of four civilians. Furthermore, government strategies for the control of oil production are causing tribal fragmentation and undermining the process of southern solidarity, calling directly into question the validity of the April 1997 Khartoum peace agreement.

143. In the face of such negative developments, the progress of the IGAD peace efforts must be viewed as insufficient. In this connection, the Special Rapporteur wishes to reiterate his recommendations to the Commission on Human Rights that the respect of human rights and humanitarian law must be regarded as a basic component of the overall strategy for seeking a solution to the conflict.

144. The Special Rapporteur wishes to reiterate the recommendations contained in his report to the Commission on Human Rights; he also wishes to emphasize that the creation of the CEAWC represents a constructive response towards the implementation of his relevant recommendations.

145. Regarding the new Constitution and transition to democracy, the Special Rapporteur deems that the most important legal and institutional development in the past year has been the adoption of the new Constitution and the registration of political parties. In his report to the Commission, the Special Rapporteur was pleased to note that these developments had taken place in a context in which relatively greater political expression was tolerated, a circumstance which had also been acknowledged by the Commission in resolution 1999/15. He is therefore disturbed at the continuing reports of violations of the right to freedom of opinion and expression which he has received in the past months.

146. While the Special Rapporteur is convinced that the Bill of Rights enshrined in the new Constitution should be interpreted as a positive step, he wishes to reiterate that energetic legal and political measures should be implemented with a view to ensuring a transition from a de facto emergency regime to a more open and democratic system based on the rule of law. In this connection, the Special Rapporteur regrets that a number of incidents limiting fundamental rights and freedoms took place in 1998, overshadowing the positive achievements linked to the promulgation of the Constitution. He therefore wishes to invite the legislators to further consider harmonizing legislation with international human rights standards.

147. The Special Rapporteur regrets that in 1999 he has continued to receive reports concerning the frequent use of torture and arbitrary detention affecting, *inter alia*, human rights defenders, journalists and political opponents, and the curtailment of the freedoms of expression and of the press and the right of assembly. Additional preoccupying reports relate to the lack of due process of law and to acts of intimidation and harassment of citizens in the capital and other Government-controlled areas. The Special Rapporteur appreciates the efforts of the Office of the Advisory Council on Human Rights of the Sudan and believes that renewed and intensive efforts are necessary in order to eradicate the abuses in question.

148. With regard to freedom of expression and freedom of the press, the Special Rapporteur would like to emphasize that a democracy can only work if the citizens and their elected representatives are fully informed. Thus, in order for journalists to be able to carry out their role in a democratic society, it is indispensable that they be allowed to express themselves without restrictions. The Government is therefore strongly encouraged to ensure that any restrictions on the right to freedom of expression remain the exception, bearing in mind that such restrictions must be limited only to those permissible under article 19 of the International Covenant on Civil and Political Rights.

149. The Special Rapporteur urges the Government to ensure that future legislation and its implementation are in compliance with article 19 and other relevant international standards. The Government is also encouraged to introduce future legislation on freedom of expression in cooperation with the media professionals and with the support of the

OHCHR advisory services. In this connection, the Special Rapporteur was pleased to learn about the fact-finding mission undertaken by the Special Rapporteur on freedom of opinion and expression and would like to express his interest in his forthcoming report.

150. As mentioned in the Special Rapporteur's report to the Commission, it remains valid that the Government needs to adopt the legal, political and administrative measures required to ensure the transition from an emergency regime to a political system based on the rule of law. The Special Rapporteur wishes to reiterate his recommendations made in that regard.

151. Finally, the Special Rapporteur would like to acknowledge the cooperation he received from the Government of the Sudan, particularly the Office of the Advisory Council for Human Rights, as well as the support provided by OHCHR, in the discharge of his mandate.